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Human rights situation in Palestine and other occupied Arab territories

Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan*

Summary

The present report has been prepared pursuant to Human Rights Council resolution 31/36 on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan. The report contains information on trends in settlement expansion, land designation for Israeli use in the West Bank and policies and practices pertaining to the Israeli settlement enterprise. It examines the human rights and international humanitarian law violations arising from the continued settlement expansion and land designation policy of Israel, including the implications of the coercive environment affecting Palestinian communities at risk of forcible transfer. The report also provides an analysis of violations relating to the production of and trade in settlement goods.

* The present report was submitted after the deadline in order to reflect the most recent developments.

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I. Introduction

1. The present report is being submitted pursuant to Human Rights Council resolution 31/36 and covers the period between 1 November 2015 and 31 October 2016. It should be read in conjunction with previous reports of the Secretary-General on Israeli settlements submitted to the General Assembly and the Council.[1]

2. The report illustrates the persistence of the Israeli settlement enterprise, which includes settlement expansion and efforts to exert control over land in the West Bank, including East Jerusalem, as Israeli occupation of Palestinian territory enters its fiftieth year and as that of the occupied Syrian Golan enters its forty-fourth year.

3. The report highlights how the policies relating to settlement activities remain at the core of a range of human rights violations in the West Bank, including East Jerusalem. It examines how such policies create a coercive environment in areas under Israeli control, placing affected Palestinian communities at risk of forcible transfer. Pursuant to Human Rights Council resolution 31/36, the report includes an analysis of the human rights and international law violations involved in the production of settlement goods and the relationship between trade in those goods and the maintenance and economic growth of settlements.

II. Legal background[2]

4. Israel bears responsibility for implementing in the Occupied Palestinian Territory the human rights obligations enshrined in the seven core human rights treaties and conventions it has ratified. International humanitarian law imposes obligations on Israel as the occupying power. It is obliged to respect the fundamental rights of the protected population in all circumstances.[3]

Transfer of the population of the occupying power to the territory it occupies

5. In its resolution 70/89, the General Assembly reaffirmed the illegality of Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan.

6. The same determination has been made by both the Security Council, in its relevant resolutions,[4] and the International Court of Justice, as regards settlement activities in the Occupied Palestinian Territory.[5] Settlements amount to the transfer of the population of Israel into the territory it occupies, which is prohibited under international humanitarian law. The transfer of an occupying power's population to a territory it occupies amounts to a war crime that may engage the individual criminal responsibility of those involved.[6]

Prohibition against the forcible transfer of protected persons

7. International humanitarian law prohibits "individual or mass forcible transfers" of protected persons within the occupied territory, as well as deportations outside of the

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[1] See A/HRC/28/44, A/HRC/31/43 and A/71/355, which covers the first months of the period under review, and A/69/348 and A/70/351.

[2] See A/HRC/28/44, paras. 5-6, A/HRC/31/43, para. 4, A/69/348, paras. 4-5, and A/HRC/25/38, paras. 4-5.

[3] Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), art. 27.

[4] Security Council resolutions 465 (1980) and 2334 (2016).

[5] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 134.

[6] Rome Statute of the International Criminal Court, art. 8 (2) (b) (viii).

occupied territory, regardless of their motive.[7] Such unlawful transfers constitute a grave breach of the Fourth Geneva Convention (art. 147) and potentially incur the individual criminal responsibility of officials engaged in such acts.[8] While other international humanitarian law provisions may be violated within the context of forcible transfer (e.g. the prohibition of the destruction of private and public property[9]), such transfers may imply the violation of several human rights, such as the right to adequate housing, including the prohibition of forced evictions,[10] the right to non-interference with family and home,[11] the right to freedom of movement[12] and the right to education.[13]

Private property and natural resources

8. International humanitarian law provides certain protections for private and public property in occupied territories.[14] Accordingly, Israel, as the occupying power, is prohibited from destroying public and private property except where it is rendered absolutely necessary by military operations. In addition, it is limited in how it may use public property; and the property of municipalities must be treated in the same way as private property.[15] Moreover, the water and other natural resources of the occupied territory must be administered in accordance with the applicable rules of international humanitarian law and may not be damaged or depleted.[16]

Extraterritorial application of domestic laws

9. Israel applies a substantial part of its domestic laws to Israeli settlers living in the occupied territories, while Palestinians living in the West Bank are subject to Israeli military rule.[17] The extraterritorial application of Israeli domestic law to settlers creates two different legal systems in the same territory, on the sole basis of nationality or origin. Such differentiated application is discriminatory and violates the principle of equality before the law, which is central to the right to a fair trial.[18] In addition, the occupying power is required to respect the laws in force in the occupied territory, unless it is absolutely prevented from doing so.[19]

III. Settlement enterprise: expansion, land takeover and denial of Palestinian development

10. With the Israeli occupation of the Palestinian territory now in its fiftieth year, illegal settlement activity continues to advance apace. Through continued expansion of illegal settlements and parallel efforts to consolidate Israeli control over the West Bank, successive Israeli governments since 1967 have overseen the steady growth of the settler population

[7] Fourth Geneva Convention, art. 49. International Committee of the Red Cross, "Customary law", *International Review of the Red Cross*, vol. 87, No. 857 (March 2005), rule 129.

[8] Rome Statute of the International Criminal Court, arts. 7 (1) (d), 8 (2) (a) (vii) and 8 (2) (b) (viii).

[9] Fourth Geneva Convention, art. 53, and Convention respecting the Laws and Customs of War on Land, art. 46.

[10] International Covenant on Economic, Social and Cultural Rights, art. 11. See also Committee on Economic, Social and Cultural Rights general comment No. 7 (1997) on forced evictions.

[11] International Covenant on Civil and Political Rights, art. 17.

[12] Ibid., art. 12.

[13] International Covenant on Economic, Social and Cultural Rights, art. 13.

[14] Convention respecting the Laws and Customs of War on Land, arts. 46-47 and 52-56, and Fourth Geneva Convention, arts. 33, 46 and 53.

[15] Fourth Geneva Convention, arts. 43, 53, 55 and 64.

[16] Convention respecting the Laws and Customs of War on Land, art. 55.

[17] This is not relevant to East Jerusalem, which, since its illegal annexation by Israel, has been subject to the Israeli legal system. It is recalled that the Security Council, in its resolution 252 (1968), reaffirmed that acquisition of territory by military conquest was inadmissible, a position reiterated in subsequent resolutions.

[18] International Covenant on Civil and Political Rights, arts. 2 and 14.

[19] Convention respecting the Laws and Customs of War on Land, art. 43.

and the unilateral takeover of large swaths of West Bank land reserves, in violation of international law.

11. The settler population in Area C and East Jerusalem has doubled since the Oslo Accords, reaching over 594,000 people (including an estimated 208,000 in East Jerusalem) by the end of 2015[20] living in some 130 settlements and 100 outposts. That number is expected to rise further given the advancement of new construction in settlements. The existence of Israeli settlements and the designation of land for exclusive Israeli use have resulted in the gradual fragmentation of the West Bank, demographic changes and the illegal exploitation of natural resources, while restricting Palestinians' access and denying possibilities for Palestinian development.

12. In July 2016, the Middle East Quartet questioned the long-term intentions of Israel given its continued efforts to exert control over the West Bank.[21] The Quartet cited the Israeli policy of settlement construction and expansion, designating land for exclusive Israeli use and denying Palestinian development as key elements in the steady erosion of the viability of the two-State solution, which undermines hopes for peace.

13. The policies and practices of Israel detailed in the sections below raise serious concerns. The impact of the Government's settlement policy on the human rights situation of Palestinians in the West Bank, including East Jerusalem, has been devastating, as highlighted by the significant developments that occurred during the period under review.

A. Designation of land for exclusive Israeli use

14. Since Israel began its occupation of the Palestinian territory in 1967, a central feature of its settlement policy in the West Bank has been the gradual takeover and designation of land for exclusive Israeli use. This has been done through various measures, including the designation of certain areas as "State land", closed military zones, national parks and archaeological sites, State support for the informal takeover of land and the encouragement of economic activities in the settlements. As a consequence of such policies, approximately 70 per cent of Area C land is off-limits for Palestinian construction and development and the situation in East Jerusalem has been profoundly altered.[22]

Designation of "State land" and allocation of land for settlements

15. Over one third of Area C has been formally designated as public land (referred to as "State land" by Israel), following a process of land registration initiated under Jordanian rule and, since 1967, by the Israeli authorities. The vast majority of "State land" designations took place before the start of the Oslo peace process in the early 1990s. "State land" has been allocated exclusively for use by Israel and its citizens, rather than for the benefit of the local population, as required under international law.[23]

16. Land allocations to 24 Israeli regional and local settlement councils, comprising 126 settlements on approximately 63 per cent of Area C, typically encompass (in addition to built-up settlement areas) farmland, industrial zones, parks, access roads and security perimeters or buffer zones.[24] Such allocations result in a footprint that vastly exceeds built-up settlement areas, which amount to only around 2 per cent of Area C.[25]

17. During the reporting period, the Israeli authorities declared over 200 hectares south of Jericho as "State land". The Blue Line team in the Israeli Civil Administration tasked

[20] Israel, Central Bureau of Statistics.

[21] Report of the Middle East Quartet of July 2016, pp. 5-6. Available from www.un.org/News/dh/infocus/middle_east/Report-of-the-Middle-East-Quartet.pdf.

[22] Area C comprises approximately 60 per cent of the West Bank and includes most of the land reserves for a future Palestinian State.

[23] B'Tselem, *By Hook and By Crook: Israeli Settlement Policy in the West Bank* (July 2010), pp. 21-35. Available from www.btselem.org/download/201007_by_hook_and_by_crook_eng.pdf.

[24] Yesh Din, "Land takeover practices employed by Israel in the West Bank" (September 2016), p. 2.

[25] Ibid.

with inspecting and amending or validating the boundaries of land previously designated as "State land" continued its activities. In a number of cases, this process has enabled the retroactive authorization of prior settlement construction carried out without the permits required under Israeli law.[26]

Impunity and support for the informal takeover of land

18. Incidents of violence against Palestinians, trespassing and the forceful takeover of land have often been conducted as part of a calculated effort by settlers to expand Israeli control beyond settlement jurisdiction areas.[27] Such actions have become effective ways of taking over land,[28] notably owing to the passivity of the Israeli authorities in addressing them.[29] Indeed, Israeli settlers in the West Bank have historically enjoyed impunity for trespassing and committing violent attacks against Palestinians, and orders against agricultural invasions, whereby settlers take over and cultivate private Palestinian land, remain almost entirely unenforced.[30]

19. The period under review witnessed the continuation of a significant decline in incidents of settler violence resulting in Palestinian casualties or damage to property, from 397 incidents in 2013 to 81 incidents between January and 31 October 2016.[31] During the reporting period, the severity of settler violence also declined compared with 2015.

20. This positive trend has been linked to preventive measures implemented by the Israeli security forces, including enhanced presence in friction areas and known hotspots for settler violence and increased issuance and enforcement of administrative measures against known violent settlers — primarily restraining orders barring them from the West Bank and, in some instances, administrative detention orders. Resort to such measures reportedly intensified following the murder of three members of the Dawabsheh family in Duma, in July 2015, for which two Israeli citizens were indicted.[32]

Designation of land for use as national parks, archaeology sites and tourism destinations as a means to entrench Israeli presence in the West Bank

21. The designation of national parks and archaeological sites and their promotion for Israeli and international tourism continues to contribute to consolidating Israeli civilian presence and control over land in the Occupied Palestinian Territory. Approximately 14 per cent of Area C land has been designated for use as national parks, and the tourism heritage site development rooted in the illegal annexation of East Jerusalem has profoundly altered the shape and character of the areas surrounding the Old City, creating footholds for residential settlement expansion in Palestinian neighbourhoods.[33] The management of such

[26] See A/HRC/31/43, paras. 21-23, and A/71/355, para. 13.

[27] See A/70/351, paras. 52-60.

[28] Talya Sason, in "Summary of the opinion concerning unauthorized outposts" (10 March 2005), writes:

> The expansion of the unauthorized outposts phenomenon began in the mid-nineties, after the building in Judea, Samaria and Gaza was frozen by the Rabin Administration in 1993. Building in settlements was still approved, but the approval rate went decreasing as the negotiations with the Palestinian representatives accelerated. The unauthorized outposts phenomenon began expanding, in light of the government's position opposing the authorizing of the building of settlements in the territories.

[29] As documented by Talya Sason in "Summary of the opinion concerning unauthorized outposts", privately led settlement expansion efforts have also received direct support from the Israeli authorities, despite an official position opposing settlement construction. See also Yesh Din, *The Road to Dispossession: a Case Study — the Outpost of Adei Ad* (February 2013).

[30] Yesh Din, "Land takeover practices employed by Israel in the West Bank". See also the following reports commissioned by the Government of Israel addressing historic law enforcement failures in the West Bank: Talya Sason, "Summary of the opinion concerning unauthorized outposts"; Meir Shamgar, "Commission of inquiry into the massacre at the tomb of the patriarchs in Hebron (26 June 1994); and Yehudit Karp, "The Karp report: investigation of suspicions against Israelis in Judea and Samaria, Jerusalem" (1982).

[31] Figures provided by the Office for the Coordination of Humanitarian Affairs of the Secretariat.

[32] See A/71/355, para. 19.

[33] See A/70/351, paras. 29-36 and 63-66.

sites restricts Palestinians' freedom of movement and prevents equal enjoyment of cultural life and heritage.[34]

22. The management of archaeological and tourism sites by private settler groups came under scrutiny following the intervention by senior officials of the Ministry of Justice on behalf of the settler group Elad. Elad successfully reinstated the original plans for Kedem Compound, a large tourist facility proposed in Silwan, East Jerusalem, after Jerusalem planning bodies had significantly reduced the scope of the plans.[35] A report of the Israeli State Comptroller highlighted the lack of poor oversight by government authorities in relation to Elad's management of tourism and ancient sites and the lack of transparency in relation to links between the organization's management and government entities.

Designation of occupied land for economic activities

23. In the report on Israeli settlements submitted to the General Assembly at its seventy-first session (see A/71/355, para. 4), it was noted that the encouragement of economic activities, including industrial and agricultural activities, within and around settlements represented an additional way for Israel to support settlement expansion besides the allocation of land for settlement homes and infrastructure.[36]

24. Through financial incentives, the Government of Israel has continued to actively encourage commercial development by Israeli and international businesses in and around the settlements. Almost all settlement industrial zones are designated as national priority areas, which carries benefits such as reductions in the price of land, grants for the development of infrastructure and tax breaks for individuals and business enterprises.[37] In its recent report on settlement businesses, Human Rights Watch noted that the physical footprint of Israeli business activity in the West Bank was larger than that of residential settlements. According to Human Rights Watch, industrial zones (1,365 hectares) and agricultural land (9,300 hectares) exploited by Israel in the West Bank occupy a surface area 1.7 times greater than the built-up area of residential settlements (6,000 hectares).[38]

B. Settlement construction and expansion

25. The Israeli policy of construction and expansion of settlements and related infrastructure, and support to privately led settlement expansion initiatives throughout the West Bank continued, and an overall acceleration in settlement expansion was observed during the reporting period. Following a period of significant slowdown in planning and tendering since mid-2014, an overall acceleration in settlement expansion was reported during 2016, as measured against the main indicators of government-led settlement activity: the number of new constructions rose compared with previous years, with the highest number of new constructions in three years recorded during the second quarter of 2016. Moreover, there was an uptick in plans advanced in both East Jerusalem and Area C.[39] Similarly, settler-led initiatives continued to enjoy State support, as evidenced by the

[34] See A/70/351.

[35] See www.haaretz.com/israel-news/.premium-1.745359.

[36] In its resolution 31/36, the Human Rights Council requested the Secretary-General to report on the human rights and international law violations involved in the production of settlement goods and the relationship between trade in these goods and the maintenance and economic growth of settlements.

[37] See https://www.hrw.org/report/2016/01/19/occupation-inc/how-settlement-businesses-contribute-israels-violations-palestinian.

[38] Ibid.

[39] According to the Israel Central Bureau of Statistics, construction started on 1,723 housing units during the first three quarters of 2016, an increase of 25 per cent compared with the same period in 2015. In Area C, 24 settlement plans involving the construction of 2,264 housing units were put forward without reaching the final approval stage. Fourteen additional plans reached a final approval stage (710 units). The figures represent an increase over 2015 but a decrease compared with 2014. Similarly, in East Jerusalem, plans for 1,572 units were put forward during 2016 compared with 1,285 units in 2015, which represented a significant decrease compared with the 3,300 units proposed in 2014.

growth in privately led East Jerusalem settlement enclaves (see para. 31 below) and continued efforts to retroactively legalize unauthorized Area C outposts.

Housing and infrastructure

26. There were significant developments in planning and construction during the period under review, particularly in East Jerusalem, including the issuance by the Israeli authorities, in November 2015, of a tender for 438 housing units in the settlement of Ramat Shlomo, in the northern periphery of the city.[40]

27. In July 2016, the Israeli media reported on a rare, court-mandated approval of a plan for 600 housing units in the Palestinian village of Beit Safafa.[41] It also reported on advances made in the construction of 560 settlement units in Maale Adumim and of 240 such units in East Jerusalem, which were soon followed by the issuance of tenders for an additional 323 units in those settlements.[42]

28. Other key developments in East Jerusalem included advances in the planning and construction of residential buildings and infrastructure in the southern perimeter of the city by municipal planning authorities. Non-governmental organizations monitoring settlement expansion have highlighted those developments as part of broader efforts by the Israeli authorities to further the establishment of a contiguous Israeli-controlled corridor connecting the Gush Etzion settlement bloc, located in Bethlehem Governorate, to Jerusalem. In that regard, construction began on a new road facilitating access between Gush Etzion and Jerusalem;[43] proposals for housing plans and tenders continued to advance in Gilo settlement,[44] which was expected to enable the expansion of the settlement southward, towards Beit Jala; the construction of the wall resumed south of Beit Jala and west of Al Walajeh; and the construction of a visitors' centre started in an adjacent area located in Beit Jala's agricultural hinterland, which had been designated as a national park in 2013. Furthermore, the construction of a road leading to an undeveloped parcel in nearby Givat HaMatos C raised concerns as an indication of possible future construction plans in the area.[45]

29. An acceleration in the implementation of settlement-related policies and measures in the southern periphery of Jerusalem and in Bethlehem Governorate resulted in the fragmentation of the area, the shrinking of space available for Palestinian development and the separation of rural hinterlands from urban areas. Key concerns emanating from these developments include the impact on the rights of Palestinian residents of the area to freedom of movement, an adequate livelihood and the enjoyment of natural resources.[46]

Support to privately led settlement initiatives in East Jerusalem

30. Israeli civil society organizations reported on the growth of privately led settlement efforts in East Jerusalem, particularly in the city's "historic basin", which saw a 25 per cent increase in the total number of settlers between 2009 and October 2016, to approximately 2,500 settlers.[47] The initiatives are supported by government funding, including through a

[40] See www.peacenow.org.il.

[41] See www.haaretz.com/israel-news/1.728768.

[42] See https://www.un.org/sg/en/content/sg/statement/2016-07-04/un-secretary-general-israeli-decisions-regarding-new-construction.

[43] Ir Amim newsletter available from www.altro.co.il/newsletters/show/8617?key=08df354b3dd7853bae6cc333e526b2dd&value=9a3cdcd0e38da468aea5b504ce87c7a2d1ce4fef: 1260978.

[44] As part of the announcement for the tender of 323 units (see para. 27 above).

[45] While not yet approved at the time of writing, the parcel in question has been designated for 800 housing units. See Ir Amim newsletter available from www.altro.co.il/newsletters/show/9056?key=ebb7138f916d1c7391aece8ed6e1c804&value=c2e4bb0d506603c6a015881780b407ec41d90f70: 1284691.

[46] Office for the Coordination of Humanitarian Affairs, "Bethlehem Governorate: fragmentation and humanitarian concerns", factsheet (January 2015).

[47] Ir Amim and Peace Now, *Broken Trust: State Involvement in Private Settlement in Batan Al-Hawa, Silwan* (May 2016), p. 5.

security budget allocated by the Ministry of Construction and Housing, totalling approximately US$ 25 million in 2015.[48]

31. Intensified efforts by Israeli settler groups to take control of East Jerusalem properties, often located deep within Palestinian neighbourhoods, have generated an increased risk of evictions of Palestinian families (see also para. 56 below).

Retroactive legalization of outposts in Area C

32. Successive reports to the General Assembly have detailed Israeli support to settlement outposts (erected by settlers without official approval from the Government of Israel) through the provision of funds, infrastructure and security, and through the lack of any action to remove them.

33. While no outpost has been legalized since May 2014, efforts to retroactively approve such settlements took a new form during the period under review, as a draft bill was introduced to avert the impending court-mandated 25 December 2016 deadline for the evacuation and demolition of the outpost of Amona, erected on the private lands of residents of Silwad, Ein Yabroud and Taibeh. The "regularization bill" envisaged the retroactive "regularization" of settlement houses built on private Palestinian property, which would remove key legal obstacles to the retroactive legalization of dozens of unauthorized outposts.[49]

C. Production of and trade in settlement goods

34. The production of and trade in settlement goods raises concerns about the human rights impact on Palestinians caused and exacerbated by business enterprises and States. The human rights obligations of Israel within the Occupied Palestinian Territory stem from the jurisdiction and effective control it exercises as the occupying power. That includes the obligation to protect individuals and communities from adverse human rights impacts by third parties, such as business enterprises, operating in territory under its effective control. Under article 1 common to the Geneva Conventions, States parties have to respect and ensure respect for the Conventions. Accordingly, third States are under the obligation not to recognize the unlawful situation resulting from Israeli settlements, nor to aid or assist in the violations committed by Israel.[50]

35. The European Union is the main trading partner of Israel, with trade worth over 32 billion euros in 2015. The Government of Israel has reportedly estimated that the annual value of industrial goods produced in settlements and exported to Europe is US$ 300 million. Agricultural production provides the main source of income for settlements in the Jordan Valley, with 66 per cent of their produce being exported.

36. Products that are wholly or partially produced in settlements are frequently labelled as coming from Israel, obscuring their actual origin. That allows the exports to be covered under preferential trade agreements with the European Union that exclude settlements. Some measures have been taken to address that issue. During the reporting period, the European Union issued new labelling guidelines for products coming from the West Bank, including East Jerusalem, and the Golan Heights. Under those guidelines, any product originating from a settlement must not be labelled as "Made in Israel" but must clearly be labelled as having been produced in a settlement.

37. While States have a primary duty to protect human rights, there is an independent corporate responsibility to respect human rights applicable to all business enterprises, irrespective of where they operate. That has been recognized in the Guiding Principles on

[48] Ibid, p. 12.

[49] See A/HRC/31/43 and A/71/355. See also www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21003&LangID=E.

[50] See *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, paras. 157-159, and International Committee of the Red Cross, 2016 commentary on article 1 common to the Geneva Conventions, para. 163.

Business and Human Rights, which are based on existing responsibilities under international law and have been unanimously endorsed by all the States members of the Human Rights Council (see, in particular, A/HRC/17/31, annex, principle 11).

38. The role of Israeli and foreign businesses in supporting and maintaining the existence of the settlements has already been highlighted (see A/67/379 and A/68/376). In its 2013 report, the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, concluded that business enterprises had directly and indirectly enabled, facilitated and profited from the construction and growth of the settlements and that businesses contributed to the maintenance, development and consolidation of the settlements with full knowledge of the liability risks (see A/HRC/22/63, paras. 96-97).

39. Since the fact-finding mission's report, increasing attention has been paid to the activities of business enterprises in relation to settlements. In 2014, the Working Group on the issue of human rights and transnational corporations and other business enterprises emphasized that businesses connected to Israeli settlements needed to be able to demonstrate that they neither supported the continuation of an international illegality nor were they complicit in human rights abuses; that they could effectively prevent or mitigate human rights risks; and that they were able to account for their efforts in that regard. The Working Group added that where companies could not prevent or mitigate the risks of being involved in human rights violations through their operations and business relationships, they might need to consider terminating their operations.[51]

IV. Coercive environment resulting from settlement policies and consequent risk of forcible transfer

40. The impact of settlement policies on the living conditions of Palestinians, including their increased risks of individual and mass forcible transfer, continues to be a concern.

41. Moreover, Israel, as the occupying power, may be increasing pressure on Palestinians to move out of their areas of residence through practices and policies that contribute to the creation of a coercive environment in areas under full Israeli control. In previous reports, the Secretary-General has outlined the existence of a coercive environment in parts of Area C and Hebron's H2 and highlighted factors constituting a coercive environment with respect to East Jerusalem.[52] He has also raised concerns about cases where forcible transfer appears to have taken place.[53]

42. The impact of a coercive environment on individuals and communities depends on their specific circumstances and experience. A coercive factor alone or in combination with others may be sufficient to determine the existence of a coercive environment in a given case and its connection with the grave breach of forcible transfer. The list of coercive factors below is not exhaustive.

A. Factors contributing to a coercive environment in the West Bank

43. The factors below contribute to the creation of a coercive environment in areas of the West Bank under full Israeli control.

[51] See www.ohchr.org/Documents/Issues/Business/OPTStatement6June2014.pdf.

[52] See A/HRC/24/30, para. 27, A/HRC/31, paras. 46 and 68, A/70/421, para. 36, A/69/348, paras. 12-16, A/HRC/28/80, para. 24, A/HRC/31/43, para. 54, A/69/348, paras. 12-16, A/HRC/25/40, para. 22, and A/71/355, paras. 24-33.

[53] See A/67/372, para. 39, A/HRC/25/40, paras. 18-20, A/69/347, para. 26, and A/71/355, paras. 61-64.

"Relocation" plans and evictions

44. The publicly stated intention of the Government of Israel to relocate or evict thousands of Palestinians currently residing in Area C is a principal source of pressure and coercion for the communities and individuals concerned. In previous reports it was highlighted that the implementation of such plans would entail forcible transfers, except where the individuals affected expressed genuine consent to move.[54] This relates in particular to Israeli plans to relocate some 7,500 Palestinian Bedouin and herders to between three and nine centralized sites[55] and to evict some 1,000 Palestmians living in eight villages in the Massafar Yatta area for the enforcement of a firing zone.[56] It also applies to other eviction and relocation plans affecting 55 Palestinian families in Susya[57] and other communities targeted for relocation outside their areas or residence, such as Dkaika,[58] in southern Hebron Governorate.

45. A history of forced evictions and transfers of entire communities by Israeli authorities places additional pressure on the individuals and communities targeted by these plans.[59]

46. The Secretary-General, the United Nations High Commissioner for Human Rights and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 have pointed to the seizure of Palestinian homes and forced evictions (and the risk of such seizures and evictions taking place) to make way for settlers to move in, as factors suggesting a coercive environment in East Jerusalem.[60] According to the

[54] See A/HRC/25/40, paras. 18-21 and 78, A/67/372, para. 36-37, and A/HRC/24/30, para. 29.

[55] See A/HRC/31/43, paras. 56-60. On 14 June 2016, the Deputy Head of the Israeli Civil Administration, Col. Uri Mendez, referred to nine relocation sites during the "Judea and Samaria" subcommittee meeting.

[56] See A/HRC/24/30, para. 28.

[57] See A/HRC/31/43, paras. 50-54.

[58] The Bedouin community of Dkaika has a population of approximately 450, most of whom are Palestine refugees. The Israeli Civil Administration has proposed relocating the community to one of the nearby villages, in line with the State's official position expressed on 13 May 2009 and 23 March 2016 in response to a petition submitted to the High Court of Justice by Dkaika residents demanding planning and zoning rights for the community. On 2 November 2016, the High Court ordered that Dkaika residents and the State enter into discussions for 90 days to find a solution regarding planning for the village residents. A temporary protection order against demolitions is in place. While it remains unclear whether planning in that location will be an option for the State, the High Court criticized the State's proposed relocation plan on the grounds that there was no public need or benefit to transfer residents. See http://rhr.org.il/eng/2016/11/update.

[59] Between 1997 and 2007, the Israeli authorities transferred in three waves some 150 Bedouin families in Jerusalem Governorate to the Al Jabal site despite their opposition to the relocation. See United Nations Relief and Works Agency for Palestine Refugees in the Near East, "Al Jabal: a study on the transfer of Bedouin Palestine refugees" (2013). Experts have assessed that these three waves of displacement amounted to forcible transfer under international humanitarian law. See Théo Boutruche and Marco Sassoli, "Expert opinion on the displacements of Bedouin communities from the central West Bank under international humanitarian law" (September 2014). In 1999, the Israel Defense Forces moved some 700 Palestinian herders out of 12 villages in the Massafer Yatta area, in Hebron Governorate, on the grounds that the area had been designated as a military firing zone. Affected Palestinians were reportedly placed in trucks and removed by force out of the area. See www.acri.org.il/en/2013/03/07/918-whats-the-deal-2. See also A/HRC/24/30, para. 28, and Office for the Coordination of Humanitarian Affairs, "Life in a firing zone: the Massafer Yatta communities" (May 2013). In 1986, 25 families were expelled from the residential area of Susya in southern Hebron Governorate on the grounds that the land had been designated an archaeological site. A second transfer took place from the new site in 2001. See Office for the Coordination of Humanitarian Affairs, "Susiya: a community at imminent risk of forced displacement" (June 2015), Rabbis for Human Rights (http://rhr.org.il/eng) and B'Tselem, "Khirbet Susiya: a village under threat of demolition" (7 August 2016).

[60] See A/70/351, paras. 25-51, and A/HRC/16/71, paras. 20-22. See also the letter dated 30 April 2015 from the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the situation of human rights in

Israeli non-governmental organizations Ir Amin and Peace Now, at least 55 families were evicted from their homes in 2015 and 2016, and some 300 Palestinian families are under threat of eviction or imminent house demolition in the "historic basin" of the Old City of East Jerusalem.[61] In most cases, the evictions have been initiated by Israeli settler organizations on the basis of landownership claims, as well as claims that the residents are no longer "protected tenants". As a result, 818 Palestinians, including 372 children, are at risk of displacement.[62]

Demolitions

47. Demolitions,[63] the threat of demolitions[64] and the lack of long-term protection against demolitions have been identified as key elements contributing to a coercive environment in the West Bank. Demolitions have been identified as a key coercive factor, in particular for Area C communities targeted for relocation,[65] communities in closed military zones[66] and communities located near Israeli settlements.[67]

48. During the reporting period, the highest number of demolitions of Palestinian homes and structures was recorded in the West Bank, with 874 structures demolished in Area C in 2016, compared with 456 in 2015, and 190 demolitions taking place in East Jerusalem, compared with 79 in 2015, the highest demolitions rate on record.[68] Between 1988 and 2016, the Israeli Civil Administration issued 14,929 orders to demolish around 16,000 Palestinian-owned structures in the West Bank, excluding East Jerusalem, which had been built without permits from the Israeli authorities.

49. The pace of demolitions in East Jerusalem also accelerated to an alarming rate, reaching 190 between 1 January and 31 October 2016, compared with 79 in 2015.[69]

Pressure from government officials

50. Pressure, including threats and harassment during repeated visits from Israeli Civil Administration and other government officials, including members of the Israeli security forces, continued to be documented as an ongoing form of coercion.[70] During visits, in

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the Palestinian territories occupied since 1967 (https://spdb.ohchr.org/hrdb/30th/public_-_UA_Israel_30.04.15_(1.2015)_pro.pdf).

[61] Ir Amim newsletter available from www.altro.co.il/newsletters/show/9436?key=d50319441ca2cddc8d7e87ceb1028269&value=c2e4bb0d506603c6a015881780b407ec41d90f70:1284691.

[62] Office for the Coordination of Humanitarian Affairs, "East Jerusalem: Palestinians at risk of evictions", 3 November 2016.

[63] See A/68/513, paras. 30-34, A/HRC/25/38, paras. 11-20, and A/HRC/31/43, para. 44.

[64] See A/HRC/28/80, para. 24, and A/69/348, para. 13.

[65] See A/HRC/31/43, paras. 46 and 68, A/67/372, para. 55, A/HRC/24/30, A/69/348, para. 13, A/HRC/25/40, paras. 18-20, and A/HRC/28/45, para. 53.

[66] Approximately 18 per cent of Area C has been designated by the Israeli authorities as "firing zones"; 38 Palestinian communities are located in such zones. Because the Israeli Civil Administration prohibits construction in firing zones, wide-scale demolitions frequently take place. During 2016, at least five communities located in areas designated as firing zones experienced demolitions, including Halaweh and Jinba, in the Massafer Yatta area of Hebron, and are at risk of being forcibly transferred to allow implementation of firing zone 918; Ein ar Rashash (Ramallah, firing zone 906); Al Jiftlik-abu al Ajaj (Jericho Governorate) and Khirbet Tana in the northern Jordan Valley (firing zone 904). Office for the Coordination of Humanitarian Affairs, "Wide-scale demolitions in Khirbet Tana", 4 March 2016.

[67] See A/HRC/28/45, para. 45, A/HRC/22/63, paras 32-38, and A/HRC/67/375, paras. 10-11.

[68] The Office for the Coordination of Humanitarian Affairs began collecting data on demolitions in 2009.

[69] Ir Amim newsletter available from www.altro.co.il/newsletters/show/9502?key=86ffe4a161ed2848474b99ff41b71bac&value=c2e4bb0d506603c6a015881780b407ec41d90f70:1284691.

[70] In Khirbet Tell el-Himma (northern Jordan Valley), the Office for the Coordination of Humanitarian Affairs has documented regular harassment by officials of the Israeli security forces and settlers during visits to the community following the demolition of homes and other structures in September

particular following demolitions, officials have reportedly solicited the relocation or removal of the affected individuals outside their area of residence and have threatened to transfer them out forcibly.[71]

51. Even where individuals may express consent to relocate, including formal expressions of consent, the transfer would be forcible, and in violation of international law, unless the affected individuals express genuine consent.[72]

Impact of military operations and settler violence

52. In Hebron's H2, the general sense of insecurity caused by the heavy military presence and security operations, which often involve the use of force by Israeli security forces, as well as harassment and arbitrary arrests, contribute to the creation of a coercive environment.[73] Meanwhile, Area C communities located inside and around areas defined by Israel as "firing zones" continued to experience a coercive environment, notably as a result of military training exercises, including with live fire. The Office for the Coordination of Humanitarian Affairs has documented such training exercises causing displacement during the reporting period.[74]

53. For communities located in close proximity to settlements and known hotspots of settler violence, violence and harassment by settlers exacerbate the coercive nature of the environment. Nonetheless, the frequency of reports of such incidents dropped notably during the reporting period.[75]

Restrictions on freedom of movement and access to essential services

54. As noted by the Middle East Quartet, the policy of denial of Palestinian development has extended to the "complex system of physical and administrative restrictions on the movement of people and goods, which Israel justifies as necessary for security", including closures, checkpoints, limits to access to natural resources and agricultural land, and impediments to accessing basic services, including medical care and education.[76]

55. Those restrictions and their impact have previously been identified as directly contributing to the coercive environment that exists in areas under full Israeli control.[77] Similarly, interference by Israeli authorities in the provision of humanitarian assistance and

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2016. See Office for the Coordination of Humanitarian Affairs, Monthly Humanitarian Bulletin (October 2016). In January 2016, the Office of the United Nations High Commissioner for Human Rights recorded the testimonies of Abu Nwar residents referring to threats received from Israel Civil Administration officials and a liaison officer following the demolition of five residential and other structures on 6 January 2016, leaving 26 refugees, including 17 children, of whom 4 were living with disabilities, displaced and without a home in the middle of winter. In the following days, on 10 and 14 January, humanitarian materials donated by the international community as part of the post-demolition response were confiscated by the Administration.

[71] For further reports on intimidation and threats related to communities in the outskirts of Jerusalem, see A/70/421, para. 46, and A/HRC/31/43, para. 59. See also www.unrwa.org/newsroom/official-statements/unrwa-condemns-demolition-homes-palestine-refugee-bedouins-families.

[72] See A/67/372, para. 37.

[73] See A/71/355, paras. 25-50.

[74] Al-'Aqaba community in the northern Jordan Valley was exposed to sustained live fire inside the residential area for two days while an Israeli military training exercise was being conducted in the vicinity. Residents of the nearby community of Humsa al-Bqai'a were also temporarily displaced as a result. See Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin — Occupied Palestinian Territory (October 2016).

[75] Systematic intimidation by Israeli settlers has created a coercive environment in Susiya. See A/HRC/31/43, para. 54, and footnote 79 above. Incidents of intimidation and physical violence by settlers and Israeli security forces against Bedouins in Umm al-Khair have been documented (see A/68/513, para. 37).

[76] Report of the Middle East Quartet of July 2016, p. 6. Available from www.un.org/News/dh/infocus/middle_east/Report-of-the-Middle-East-Quartet.pdf.

[77] See A/71/355 and A/HRC/31/43.

the destruction of such assistance in Area C has heightened the risk that affected communities will be forcibly transferred.[78]

Additional factors contributing to a coercive environment

56. Other factors contributing to a coercive environment include the strict residency regime for East Jerusalem residents and restrictions on family unification between residents of East Jerusalem and other parts of the West Bank.[79]

57. Similarly, policies and practices in the context of the five-decade-long Israeli occupation can contribute to a coercive environment, notably the confiscation by the Government of Israel of Palestinian land and restrictions on access to and control over natural resources, including water, which impede the development of the Palestinian economy; restrictions on the freedom of movement of Palestinians in the West Bank, including East Jerusalem; the lack of access to effective legal remedies; and the implementation of collective punishment measures such as punitive demolitions.

V. Settlements in the occupied Syrian Golan

58. Settlement expansion and land appropriation by the Government of Israel in the occupied Syrian Golan continued in direct violation of international law. In October 2016, the Government reportedly approved the construction of 1,600 new homes in the illegal settlement of Katzrin.[80] As noted in previous reports, Israeli settlements in the Golan are encouraged through financial incentives and a disproportionate allocation of water resources, contributing to a higher agricultural yield for settlers.[81] The Government is also reportedly seeking to appropriate approximately 20,000 acres of occupied land to create Hermon national park. The land in question is currently used for agriculture and housing by the inhabitants of the nearby Syrian towns of Majdal Shams and Ein Qynia.[82] The appropriation of the land would severely restrict the development and expansion of the town of Majdal Shams.[83]

59. The Israeli authorities reportedly demolished a home in the Syrian Golan for the first time on 7 September 2016. The house was in the village of Majdal Shams and it was demolished on the basis that it had been built without the necessary permit.[84] Discriminatory land, housing and development policies established by the Israeli authorities have made it difficult for Syrians to obtain building permits, with the result that Syrian towns and villages are increasingly overcrowded.[85] The human rights organization Al-Marsad reported that a number of Syrian homeowners had received demolition notices; the organization expressed concern that the first demolition could mark the beginning of a new policy of home demolitions.[86]

60. Of further concern are reiterations by senior Israeli government officials, including the Prime Minister, during 2016 that Israel would never give up its claim to the Golan Heights. The Secretary-General has repeatedly reaffirmed the continuing validity of Security Council resolution 497 (1981), in which the Council decided that the Israeli

[78] Approximately 170 European Union humanitarian structures were demolished between 2009 and mid-2016, of which 91 were demolished in the first six months of 2016. See www.haaretz.com/israel-news/1.733729 and www.unrwa.org/newsroom/official-statements/un-officials-call-immediate-revocation-plans-transfer-palestinian.

[79] See www.btselem.org/jerusalem/revocation_of_residency.

[80] See www.timesofisrael.com/liveblog_entry/israel-okays-1600-new-homes-in-golan-heights.

[81] See A/HRC/28/44, para. 54, and A/HRC/31/43, para. 64.

[82] See http://golan-marsad.org/al-marsad-calls-on-international-community-to-act.

[83] See http://golan-marsad.org/press-release-al-marsad-submits-objection-to-hermon-national-park-plan.

[84] See http://golan-marsad.org/press-release-israeli-authorities-demolish-home-in-majdal-shams-in-the-occupied-syrian-golan/

[85] Ibid.

[86] Ibid.

decision to impose its laws, jurisdiction and administration in the occupied Syrian Golan Heights was null and void and without international legal effect.

VI. Conclusions and recommendations

61. Israeli settlement activity is incompatible with the obligations of Israel under international law. Settlement activity is a key driver of need for humanitarian assistance in the West Bank, including East Jerusalem, and lies at the core of a range of human rights violations. Israeli settlement activity further constitutes one of the main obstacles to a viable Palestinian State. The significant role that the production of and trade in settlement goods plays in helping to support and maintain settlements is also of concern.

62. Israel must implement all relevant United Nations resolutions, including Security Council resolution 497 (1981), and withdraw from territory it has occupied since 1967. To meet its obligations under international law, Israel must stop building settlements, reverse any settlement development activity and make full reparations to the individuals and communities concerned.[87]

63. Within the scope of its obligation to respect and ensure respect for human rights within the Occupied Palestinian Territory, the Government of Israel has the duty to protect the Palestinian population against human rights abuses by third parties, including business enterprises. It should implement the Guiding Principles on Business and Human Rights and, in particular, take the legislative, administrative policy and remedial actions necessary to prevent, investigate, punish and redress abuses. The Israeli authorities must rescind all policies and practices that, directly or indirectly, are likely to lead to the forcible transfer of Palestinians, including policies and practices that contribute to the creation of a coercive environment that forces people to leave their communities. Specifically, the Israeli authorities must:

(a) Refrain from any initiative to relocate communities from Area C in contravention of international law;

(b) Cease the implementation of a planning and zoning regime that is discriminatory and restrictive and that facilitates the construction and expansion of settlements and the wall, in violation of international law;

(c) Cease the demolition of the homes and private property of Palestinians and take all measures to prevent violence and other coercive measures perpetrated by public officials or settlers;

(d) Ensure that any incident of violence by private actors, including settlers, against Palestinians and their property are investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate sanctions, and that victims are provided with effective remedies in accordance with international standards.[88]

64. Third States should provide guidance on implementing the Guiding Principles on Business and Human Rights to business enterprises domiciled in their territory or within their jurisdiction that operate in conflict-affected areas, including in the context of military occupation, such as in the Occupied Palestinian Territory.

65. Business enterprises should undertake human rights due diligence in order to identify, prevent, mitigate and account for how they address any adverse human rights impact on Palestinians they may cause or contribute to, or which may be directly linked to their operations, products or services.

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[87] Draft articles 30 and 31 of the draft articles on responsibility of States for internationally wrongful acts, see *Yearbook of the International Law Commission 2001*, vol. II (Part Two), p. 28.

[88] See CCPR/C/ISR/CO/4, para. 16.